

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-2515

United States of America,

Appellee,

v.

Rodney C. Shurter,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.
[UNPUBLISHED]

Submitted: January 4, 2002
Filed: January 14, 2002

Before HANSEN, FAGG, and BEAM, Circuit Judges.

PER CURIAM.

Rodney Shurter was convicted of conspiring to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846, and the district court¹ sentenced him to 188 months imprisonment and 5 years supervised release. On appeal, he argues that the jury did not properly find the drug quantity attributable to him, in violation of Apprendi v. New Jersey, 530 U.S. 466 (2000), because the district court's jury instructions improperly allowed the jury to attribute to him quantities outside his

¹The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

knowledge and not in furtherance of the specific agreement with his co-conspirators. After careful review of the record, we affirm.

The district court's instruction, read as a whole, fairly and adequately reflected the applicable law and therefore was not erroneous. See United States v. Phelps, 168 F.3d 1048, 1057 (8th Cir. 1999). Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.